

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILLIAM E. WARD, JR.,

Petitioner,

-against-

No. 03-CV-270
(LEK/DRH)

J. SMITH, Superintendent,

Respondent.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on April 27, 2005, by the Honorable David R. Homer, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by petitioner, which were filed on May 17, 2005.

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a *de novo* review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein.¹

¹ The Court notes two alterations to the Report-Recommendation: (1) Report-Recommendation (Dkt. No. 41) at 6 (“N.Y. Penal Law § 264.04” should read instead “N.Y. Penal Law § 265.04”); and (2) Report-Recommendation (Dkt. No. 41) at 9 (“N.Y. Penal Law § 290.10” should read instead “N.Y. Crim. Proc. § 290.10”). Neither of these alterations has a material affect on the conclusion of the Report-Recommendation.

Accordingly, it is hereby

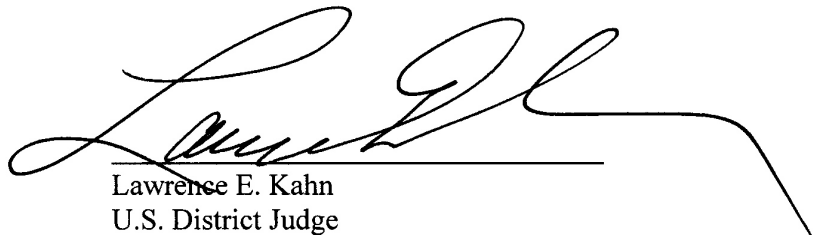
ORDERED, that the Report-Recommendation is **APPROVED** and **ADOPTED**, and it is further

ORDERED, that the petition for a writ of habeas corpus is **DENIED** and **DISMISSED**; and it is further

ORDERED, that the Clerk serve a copy of this order on all parties.

IT IS SO ORDERED.

DATED: September 26, 2005
Albany, New York



Lawrence E. Kahn
U.S. District Judge